

THE BOMBAY KHAR LANDS ACT, 1948 (BOM. LXXII OF 1948).

G. N., R. D., No. 10558/45, dated 31st December 1949 (B. G., 1950, Pt. IV-B, p. 1).

S. 48.

In exercise of the powers conferred by section 46 of the Bombay Khar Lands Act, (Bom. LXXII of 1948), the Government of Bombay is pleased to make the following rules, namely :—

**Bombay
Khar Lands
Rules, 1949.**

1. *Short title.*—These rules may be called the Bombay Khar Lands Rules 1949.
2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—
 - (a) “ Act ” means the Bombay Khar Lands Act, 1948 ;
 - (b) “ Form ” means a form appended to these rules ;
 - (c) words and expression used but not defined in these rules shall have the meanings assigned to them in the Act.
3. *The manner of electing panel of representatives by landlords and tenants of a unit.*—(1) Whenever an election of representatives is to be made under sub-section (3) of section 3 of the Act, the Mamlatdar, or any officer authorised by the Board shall cause a written notice in Form I, stating the date on which and the place and time at which the election shall be held. The notice shall be published in the regional language of the villages concerned by affixing copies thereof at the village chavdi or at the village panchayat office or at any other public place appointed by him in this behalf, not less than fifteen days before the date fixed for the election. Such notice shall also be given in the villages concerned by beat of drum on the day immediately preceeding the day fixed for holding the election inviting all landlords and tenants of lands in the unit concerned to be present on such day and at the time and place fixed for the election.
 - (2) The Mamlatdar or the officer authorised by the Board in this behalf shall preside at the meeting of the persons assembled in response to the notice given under sub-rule (1). The Mamlatdar or such officer, as the case may be, shall then prepare a list of the persons so assembled.
 - (3) The presiding officer shall then call upon all the candidates who seek election to state their names to him. He shall then ascertain whether the said candidates possess the qualifications specified in rule 4. If any of the candidates does not possess the qualifications specified in rule 4, his name shall be excluded. He shall prepare a list of persons duly qualified to contest the election.
 - (4) At any time before the name of the first candidate is put to vote, a candidate may withdraw his candidature.
 - (5) If the number of candidates who have not withdrawn their candidature as aforesaid is equal to the number of members to be elected, the presiding officer shall forthwith declare such candidates to be duly elected.
 - (6) If the number of such candidates is greater than the number of members to be elected, the presiding officer shall read the names of the candidates, state the the number of members to be elected and explain to the landlords and tenants present at the meeting that they have to give only as many votes as there are representatives to be elected and that no person proposed as a representative shall be given more than one vote.

(7) The name of every such candidate shall be put to vote separately by show of hand

(8) The candidate or candidates shall be declared elected in the order of the number of votes secured by each of them.

(9) When an equality of votes is found to exist between any candidates who are willing to take office, and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the presiding officer and in such manner as he shall determine.

(10) The presiding officer shall report the result of the election to the Board.

Explanation.—For the purposes of this rule, if there is only one unit in a district there shall be elected three representatives for the unit. If there are two units in a district, there shall be elected two representatives for each of the units; and if there are more than two units in a district, there shall be elected one representative for each of such units.

4. *Qualifications to be possessed by non-official members of the Board.*—A member other than an ex-officio member shall possess the following qualifications:—

- (a) he should be over thirty and under sixty years of age;
- (b) he must have passed at least the vernacular fourth standard examination.

5. In addition to the construction, maintenance and preparation of embankments, the Board may prepare schemes for the following objects also:—

- (a) determining a purpose for which the reclaimed lands could most profitably be used,
- (b) controlling and maintaining tree growth including marsh-bushes to prevent erosion of embankments,
- (c) assigning suitable areas from which materials required for construction and repairs for embankments may be derived.

6. *The other objects for which a scheme may be prepared.*—In addition to the particulars specified in clauses (i) to (vi) of sub-section (2) of section 12, a scheme prepared may also contain the following particulars, namely:—

- (a) the purposes for which the reclaimed land could profitably be used;
- (b) the approximate value of the land before and after its reclamation;
- (c) the estimated yield of the land before and after its reclamation;
- (d) the approximate amount required to be contributed per acre of land by persons affected by the scheme.

7. *The period within which the Board is to submit the draft scheme.*—The Board shall submit the draft scheme to the State Government under sub-section (1) of section 15 within three months from the date of its publication under sub-section (1) of section 13 :

Provided that the State Government may, if it thinks fit, extend such period for a further period not exceeding three months on the application of the Board in that behalf.

8. *The period within which the State Government may sanction the draft scheme.*—The State Government shall, within three months from the date of the submission of the scheme to the State Government under sub-section (1) of section 15, either sanction the scheme with or without modification and subject to such conditions as it may think fit to impose or refuse to give sanction to the scheme.

9. *Execution of a scheme.*—(1) After a scheme has come into force under section 16, the Board shall appoint an officer to execute it.

(2) Such officer shall send a notice in Form II to every landlord and tenant to pay his share of the contribution towards the cost of the scheme and in the case of Government lands affected by the scheme to the Collector, to pay the share of the contribution of Government in the proportion specified in sub-section (2) of section 25 within one month from the date of the service of the notice. The notice shall specify the amount due which shall be paid to such officer :

Provided that the contribution of 20 per cent. leviable under the second proviso to sub-section (2) of section 25 may be levied from the tenants and to the extent of the same percentage from the owners in the form of labour :

Provided further in cases where it is agreed that the contribution shall be leviable in the form of labour, an omission on the part of persons to provide such labour shall be deemed to be default in payment of the contribution.

(3) If the landlord and tenants liable to pay the contribution make default in the payment thereof or in providing for labour, the officer shall proceed to take steps to recover the amount as provided in section 40 of the Act.

(4) The officer shall proceed to execute the scheme under the directions of the Board as soon as the amount of contribution of not less than 50 per cent. of the total amount payable by the landlords and the tenants has been recovered.

10. *Disposal of lands forfeited under section 30.*—Where any lease of land has been determined by forfeiture to the State Government for non-payment of contribution under section 30 of the Act such land shall be disposed of in accordance with provisions of the Bombay Land Revenue Code, 1879, and the rules made thereunder.

11. *The manner of constituting a committee for each unit.*—The Board may nominate not more than five persons out of the landlords and tenants whose lands are included in the scheme to form a Committee under section 19.

12. *Matters connected with the acquisition of land, right or interest under section 20.*—For the purposes of the enforcement of the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) for the acquisition of any land under section 20 the following procedure shall be observed :—

(a) After the land proposed to be acquired has been marked out, measured and planned under section 8 of the said Act, the Collector shall send to the Board a statement showing the approximate cost of the acquisition of the land.

(b) On receipt of the statement under clause (a), the Board shall deposit with the Collector the amount of the cost shown in the statement.

(c) After an award made by the Collector has become final under section 12 of the said Act, the Collector shall send a copy thereof to the Board, and unless a reference is made to a Court under section 18 of the said Act, the Collector shall take possession of the land (if not already taken under section 17 of the said Act) and inform the Board of it and of the actual amount of the cost of the acquisition and of the amount, if any, remaining surplus out of the amount deposited with him under clause (b). The Board shall then arrange to take back the surplus amount, if any, and to take possession of the land. Where possession of land is taken by the Collector under section 17 of the said Act, before an award is made under section 11 of the said Act, the Collector shall give immediate intimation of it to the Board, in order to enable the Board to take immediate possession of the land from the Collector.

(d) If a reference is made to a Court under section 18 of the said Act, the Collector shall inform the Board of it and deposit the amount deposited with him under clause (b) in the Court. When the matter is finally decided by the Court, the Collector shall intimate to the Board the decision of the Court, as also the additional amount, if any, that the Board has to pay in view of the Court's decision. The Board shall then pay the additional amount, if any, to the Collector or to the Court, as may be required.

13. *Manner of granting licence and levy of fees under section 24.*—(1) A person desiring to obtain a licence under section 24 shall apply to the Board or an officer duly authorised by it in this behalf.

(2) The licence shall be granted in Form III on payment of a fee of Rs. 5 and subject to all or any of the following conditions in addition to those which may be specified in the licence having regard to the circumstances of a particular case :—

(a) The licensee shall not fish within 50 feet on either side of the embankment in the tidal or Khar land, as the case may be, except in drainage channels.

(b) The licensee shall not cause damage to or in any way interfere with any of the said embankments.

(c) The licensee shall not fish or exercise his right of fishery in any water on the tidal or khar land to which the licence relates for such period or on such days as may be required by the Board or the officer authorised under sub-rule (1).

(d) The licensee shall not object to draining off such water as and when necessary for the purpose of any scheme under the Act.

(e) If the licensee, while fishing or exercising the right of fishery in any water on the tidal or khar land to which the licence relates, causes any damage to any scheme of the Board under the Act, the licensee shall be liable to pay the cost of the damage caused by him to the scheme. If the licensee fails to pay it, it shall be recoverable as an arrear of land revenue.

(f) The licence shall be liable to be cancelled at any time, if the holder thereof commits breach of any of its conditions or if in the opinion of the Board it should be cancelled for any other cause.

14. *Open licence to fish.*—The Board may by a general notice license persons to fish in their own lands by means of hand nets.

15. *The period within which an application for a loan may be made.*—The application for a loan under section 26 of the Act shall be made within one month from the date of receipt of a notice under sub-rule (2) of rule 9.

16. *Grant of loan under section 27.*—(1) If the security proposed to be furnished for the grant of the loan is land, the applicant shall also forward the extracts from the record of rights relating to such land along with the application made under section 26 of the Act.

(2) If the applicant has no land, he shall furnish a solvent surety.

(3) Interest shall be charged on the loan at the rate of $3\frac{1}{2}$ per cent. per annum.

(4) The loan shall be repayable in such instalments, not exceeding six, as the State Government may, having regard to the financial condition of the applicant, determine in each case.

(5) No loan shall be granted unless the applicant executes a bond in Form IV-A or IV-B, as the case may be.

17. *Levy of annual contribution and the manner of levying it.*—(1) The annual contribution payable under section 31 shall be fixed by the State Government after consultation with the Board and shall be declared in the notification published in the Official Gazette.

(2) The annual contribution payable by the landlords and tenants shall be in the proportion of one-third and two-thirds respectively :

Provided that such contribution payable by the landlords and the tenants belonging to the Adiwasi class in the Thana District shall be in the proportion of one-fourth and three-fourths, respectively.

(3) The annual contribution shall be levied in the form of Khar Bandist Akar and be paid along with land revenue as a land revenue demand.

18. *Forms of Accounts.*—(1) The accounts of the Board shall be maintained in Forms V, VI and VII.

(2) The accounts shall be audited annually by Government auditors on the same terms and conditions, if any, subject to which they audit the local fund accounts.

19. *The manner in which and the purposes for which balances of funds are to be expended.*—The balances of the fund and the interest accruing thereon shall be expended for the following purposes, namely :—

(i) the preparation of the scheme ;

(ii) the maintenance of, and carrying out repairs to, any embankments included in a scheme ;

(iii) payment to the State Government in respect of cost on account of pay, pension, leave and other allowances of the officers and servants appointed under the Act ;

(iv) meeting all other incidental charges for the conduct of business of the Board and the discharge of its duties specified in the Act ;

(v) defraying the cost of audit of the accounts.

20. *Notice under section 41.*—The notice to be given to the owner or occupier or other person interested in any land under section 41 shall be in Form VIII.

21. *Manner in which the documents, plans and maps relating to the sanctioned scheme are accessible to the public.*—The documents, plans and maps relating to a scheme which has come into force shall be open for public inspection at the office of the Mamlatdar or Mahalkari in whose Taluka or Mahal the unit to which the scheme belongs lies, at any time during office hours and certified copies thereof shall be supplied on payment of the fees prescribed in Chapter XXII of the Land Revenue Rules (1921), for inspection, search and grant of copies of such records.

FORM I.

[See Rule 3(1).]

WHEREAS a panel of representatives is required to be elected for unit No. _____
comprising the Khar lands of village(s) of _____ taluka
district _____, notice is hereby given to the landlords and tenants of
the lands in the said Unit to be present at* _____ on the _____ day
of _____ 19 _____ at _____ o'clock, to elect the required
representative(s).

Date _____

Signature of the Mamlatdar
or the authorised Officer.

*Here specify place.

FORM II.

[See Rule 9(2).]

To _____

Mr. _____ resident of _____
_____ taluka _____ district.

Notice is hereby given that as a scheme described in the margin has been sanctioned by Government and published in the *Bombay Government Gazette* under section 15(3) of the Bombay Khar Lands Act, 1948, you as the landlord/tenant of the land bearing Survey No. _____ measuring _____ A. _____ G. included in the said scheme are hereby informed that the execution of the scheme will commence from _____ as your share. You are therefore requested to pay Rs. _____ as your share of the contribution under section 25(2) of the said Act.

You are further informed that if you fail to pay the contribution within one month from the date of service of this notice, the same will be recovered from you as arrears of land revenue.

Dated _____

Signature of the Authorised Officer.

FORM III.

(See Rule 13.)

Form of licence for permission to exercise the right of fishery
fish in the water
 of tidal
khar land.

WHEREAS Mr. _____ resident of _____ Taluka
 District _____ has applied for permission to exercise the right of fishery
fish in the
 water on tidal land measuring approximately a. _____ g. and situated
khar
 at _____ taluka _____ district _____ as described
 in the margin and shown in the attached plan ;

AND WHEREAS the provisions of the Bombay Khar Lands
 Act, 1948, apply to the said land, license is hereby
 Describe the water
land
 giving its boundaries
 properly.
 given to the applicant to exercise the right of fishing
fish in
 the water on the said land for the revenue year on
 payment of a license fee of Rs. _____ and subject to the
 following conditions :—

(Here state all or any of the conditions given in rule 12 as well as special
 conditions, if any.)

Dated _____

Signature of Licensing Authority.

FORM IV-A.

[See Rule 16(5).]

Whereas
 of _____ Taluka _____ District (hereinafter called
 "the Borrower") has applied for a loan under section 26 of the Bombay Khar
 Lands Act, 1948 (Bom. LXXII of 1948) (hereinafter referred to as "the said Act")
 on* the security of the land situate at _____ and measuring _____

And Whereas the Borrower has agreed to repay the loan with interest in
 accordance with the rule 15 of the Bombay Khar Lands Rules, 1949, made under
 the said Act this order witnesseth that a loan of Rs. _____

(†Rupees _____) is hereby granted to the Borrower at simple
 interest of $3\frac{1}{2}$ per cent. per annum to enable him to pay his share of the contribution
 towards the cost of the following Scheme prepared under the said Act, namely :—

(Here describe the Scheme)

* Strike off, if not applicable.

† In words.

2. The loan with the interest thereon and the cost, if any, incurred in making or recovering the loan, shall be repayable in fixed instalments of the amounts and on the dates mentioned in the margin. The amounts so paid, shall be credited to interest and principal in such proportion as shall from time to time be fixed by the Collector subject to the control of the

Details of Instalments.			Remarks.
S. No.	Date.	Amount.	

State Government until the whole of the dues outstanding shall have been repaid.

3. The loan is granted subject to the provisions of the said Act, and the Rules for the time being in force thereunder, and to the following conditions, namely :—

(i) The loan shall be applied solely for the purpose for which it is granted.

(ii) Neither the Borrower, nor his heirs, executors, administrators or assigns shall transfer by way of mortgage, sale, gift, partition or otherwise any land mortgaged as security for the loan.

(iii) The statement of the encumbrances now existing on the land mortgaged by the Borrower as security for the loan (which statement is appended to the mortgage-deed endorsed hereon), is true and complete.

(iv) Any instalment of the loan shall be payable on such earlier date than the date hereinbefore fixed in that behalf, as may be fixed in any year by the Collector having regard to any exceptional agricultural conditions of the year, as to which conditions the Collector's decision shall be final.

(v) Any instalment of the loan may be increased to such amount, not exceeding double the amount hereinbefore fixed, as may be determined in any year by the Collector, having regard to any exceptional agricultural conditions during the year, as to which conditions the Collector's decision shall be final.

(vi) The amount of the loan shall be paid to the Borrower on production of a certified copy of this Order at the Treasury at _____ in the following instalments :—

Date

Amount

4. In default of the due observance by the Borrower of any of the foregoing conditions, or if any instalment specified herein or increased by the Collector under condition 3 (v) above is not paid within one month of the date fixed for its payment or of the date fixed by the Collector under condition 3 (iv) above, the whole of the amount for the time being outstanding against the Borrower shall become immediately recoverable and may be so recovered by the Collector, notwithstanding that the period fixed for repayment has not elapsed.

Dated this _____ day of _____

Signature of the Grantor/Mamlatdar of _____

5. I agree with the Governor of Bombay that I shall be bound by all the conditions stated in the above written order.

Thumb print
of Borrower.

Signature of the Borrower.

.....
.....

Signature of witnesses.

‡6. I, ... of
Taluka.....District.....am a surety
for the said.....and do hereby agree with the Governor
of Bombay that, if the said.....shall make default in
payment of the loan or any portion thereof at any time when the same shall become
payable, then the amount of the default shall be recoverable from me.

Dated this day of

Thumb print.

Signature of surety.

.....
.....

Signature of witnesses.

§7. I the abovementioned.....hereby agree to repay to the
Governor of Bombay the loan now advanced, and in consideration of the same and
as security for the due repayment thereof,
I hereby mortgage to the Governor of
Bombay the lands specified in the margin
to which I am absolutely entitled, free from encumbrances (or which
are encumbered as stated below).

Village. S. N. Area. Remarks.

8. And, in the event of my making default in payment of any portion of the said monies on any of the dates fixed in or under the above-written order for payment I agree that the Governor of Bombay shall be at liberty to cause the said lands to be sold and the proceeds to be applied in payment of the whole amount outstanding at the time of sale.

9. And I further agree that it shall be lawful for the Governor of Bombay to cause the said lands to be sold without the intervention of the Court under section 69 of the Transfer of Property Act, 1882, in case the said monies or any part thereof have become due and notice in writing requiring payment thereof has been served upon me and I have made default in payment for three months after such service.

Dated this day of

Signature of Borrower.

.....
.....

Signatures of two witnesses.

‡ (This should be scored out when the Borrower mortgages land as security).

§ (This should be scored out if the borrower has no land to give security).

FORM IV-B.

[See Rule 16(5).]

Whereas the persons mentioned in column 2 of Schedule A hereto as Borrowers (hereinafter called "the Borrowers") being residents of Taluka District have applied for a loan under section 26 of the Bombay Khar Lands Act, 1948 (Bom. LXXII of 1948) (hereinafter referred to as the "said Act").

And Whereas the Borrowers have jointly and severally agreed to repay the loan with interest in accordance with rule 15 of the Bombay Khar Lands Rules, 1949, made under the said Act.

This order witnesseth that a loan of the aggregate amount of Rs. (Rupees) is hereby granted to the Borrowers at simple interest of $3\frac{1}{4}$ per cent. per annum for the purposes respectively specified in column 5 of Schedule A.

2. The loan with the interest thereon and the cost, if any, incurred in making or recovering the loan, shall be payable in fixed instalments of the amounts mentioned in column 4 of Schedule A. The amounts so paid shall be credited to interest and principal in such proportion as shall from time to time be fixed by the Revenue Authorities subject to the control of the State Government until the whole of the dues outstanding shall have been repaid.

3. This loan shall be paid to the Borrowers on production of a certified copy of this order at the Treasury at in the amounts specified in respect of each Borrower and on the dates and in the instalments mentioned in column 7 of Schedule A.

4. This loan is granted subject to the provisions of the said Act and the Rules for the time being in force thereunder and to the following conditions namely :—

(i) As to the repayment of the aggregate principal amount of the loan now granted, each of the Borrowers is as among the Borrowers themselves liable for and bound to contribute the amount specified in column 4 of Schedule A.

(ii) As to the payment of the aggregate instalments hereinbefore mentioned, which are inclusive of principal, interest and cost of the loan now granted, each of the Borrowers is as among the Borrowers themselves liable for and bound to contribute subject to condition (vi) the amount specified in column 4 of Schedule A in respect of each Borrower and such amounts shall subject to condition 6 be payable on the dates hereinbefore mentioned for the payment of each aggregate instalment.

(iii) All the Borrowers are nevertheless jointly and severally liable for and bound to repay to the Governor of Bombay the total amount of the loan now granted with interest and costs, and the total amount so payable shall subject to conditions (v) and (vi) be payable in the aggregate in the instalments and on the dates hereinbefore sanctioned.

(iv) The loan shall be applied solely for the purpose for which it is granted.

(v) Any instalment of the loan shall be payable on such earlier date than the date hereinbefore fixed in that behalf as may be fixed in any year by the Collector having regard to any exceptional agricultural conditions of the year as to which conditions the Collector's decision shall be final.

Schedule B.

Serial No.	Name of person to whom the disbursement is made.	Date of first disbursement.	Amount.	Signature of person receiving disbursement.	Signature of disbursing Officer.	Date of second disbursement.	Amount.
1	2	3	4	5	6	7	8
Signature of person receiving disbursement.	Signature of disbursing Officer.	Date of third disbursement.	Amount.	Signature of person receiving disbursement.	Signature of disbursing Officer.		
9	10	11	12	13	14		

Dated this

day of

Signature of Granter
or Mamlatdar.

FORM V.

(See Rule 18.)

Daily Account of the General Fund (including other funds, such as sinking fund, etc.).

Date.

RECEIPTS.

Chalan No. On what
account. Amount.

EXPENDITURE.

Voucher No. On what
account. Amount.

OPENING BALANCE.

Total.

Total.

Closing balance.

Grand Total.

Signature.

FORM VI

(See Rule 18.)

Account of the sinking fund.

Date.

RECEIPTS.

Chalan No. On what
account. Amount.

EXPENDITURE.

Voucher No. On what
account. Amount.

OPENING BALANCE.

Total.

Total.

Closing balance.

Grand Total.

Signature.

FORM VII.

(See Rule 18.)

Account of Scheme No. Unit.

Date.

RECEIPTS.

Chalan No. On what
account. Amount.

OPENING BALANCE.

Total.

EXPENDITURE.

Voucher No. On what
account. Amount.

Total.
Closing balance.
Grand Total.

Signature.

FORM VIII.

(See Rule 20.)

To
Shri

Owner
occupier
other person such as
mortgagee,
permanent tenant etc.

of S. No. of Taluka District

Notice is hereby given that I, the Khar Lands Development Board, Bombay
being duly authorised by the Committee appointed by the Khar Lands

State, Bombay to enter upon, survey and mark out
Development Board, Bombay State
land for the purpose of preparing, sanctioning or executing a scheme under
section 41 of the Bombay Khar Lands Act, 1948, intend to enter upon the
land in the above mentioned S. No. for the said purpose at on

Dated the

day of

19

Signature of the Officer.